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FISCAL IMPACT REPORT

02/09/13
ORIGINAL DATE 02/19/13
LAST UPDATED 02/22/13 **HB** 345/HCPAC/aHTRC

SPONSOR HCPAC

SHORT TITLE Random Capital Outlay Audits **SB** _____

ANALYST Boerner

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate	Indeterminate	Indeterminate	Recurring	OSA Operating Funds

(Parenthesis () Indicate Expenditure Decreases)

SB507 Capital Outlay Review, Plans & Monitoring;
 HB305 Capital Outlay Project Audits

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Office of the State Auditor (OSA)

SUMMARY

Synopsis of HTRC Amendment

The HTRC amendment reduces the number of annual capital audits to be completed by the OSA from 25 to 10 and no more than 25. The HTRC also amends the bill to provide for an effective date of July 1, 2016.

Synopsis of Original Bill

The bill requires the OSA to annually select at least 25 capital outlay projects funded by the general fund, severance tax bonds, general obligation bonds, special funds or other sources of state funding for special audit each year using a risk-based approach. Capital outlay projects selected for audit must not be otherwise reviewed pursuant to the Audit Act and at least 50 percent of the capital project award must have been expended. The OSA may contract for the audits.

The OSA would also provide notification to the oversight agencies, the Department of Finance and Administration and the Legislative Finance Committee of the projects selected and the results.

FISCAL IMPLICATIONS

This substitute bill does not appropriate funds to conduct twenty-five capital outlay projects each year. If the OSA is expected to bear the costs directly, the impact to current operations could be significant due to the potential number of hours that would need to be allocated to conduct the capital project audits.

PERFORMANCE IMPLICATIONS

The bill specifies “at least twenty-five capital outlay projects” will be selected. Pursuant to the Section 12-6-3(B) NMSA 1978 (the tiered system of financial reporting), “local public bodies” incorporated municipalities, land grants, mutual domestic water consumer associations and special districts) that have under \$500 thousand in revenue during a fiscal year and directly expend at least 50 percent or the remainder of a capital outlay award must conduct an agreed-upon procedures engagement that is focused solely on the capital outlay funds directly expended. The remaining population of unaudited completed projects to select from is unknown.

OTHER SUBSTANTIVE ISSUES

While certified public accountants may be technically capable of performing capital outlay audits, the OSA may not be the appropriate entity to perform what would be considered a performance audit, which is a systematic assessment of the results of state government spending and program activities to include assessing program effectiveness and results; economy and efficiency; and compliance with legal or other requirements.

In 1991, the Legislative Finance Committee (LFC) assumed responsibility of the performance audit program which had previously been a part of the OSA. The OSA (website) notes that performance audits are typically done by staff employed by the LFC and that the OSA does not normally assist the LFC or otherwise engage in performance auditing.

Rather, the OSA statutory responsibilities are focused on the financial affairs of state agencies and entities. The Office of the State Auditor has two statutory purposes: (1) to ensure that the financial affairs of every agency shall be thoroughly examined and audited each year by the state auditor, personnel of the state auditor’s office designated by the state auditor or independent auditors approved by the state auditor and (2) cause the financial affairs and transactions of an agency to be audited in whole or in part. (Section 12-6-3, NMSA 1978). These two statutory purposes grant the State Auditor the authority to conduct both financial and special audits.

ALTERNATIVES

In lieu of bearing the costs of the audits directly, the OSA could designate the appropriate agency (that expends the capital outlay funds) for audit and the agency would be required to bear the reasonable cost of the audit pursuant to Section 12-6-3 NMSA 1978.

The OSA could collaborate with the Legislative Finance Committee, which has significant experience with capital outlay performance audits, for the selection and performance of the audits.